

III. REMARKS/ARGUMENTS

Claim Amendments

Claims 1, 3 and 20 have been amended consistent with the examiner's suggestions in the telephonic interview of 9/11/2009.

Claim Rejections – 35 U.S.C. § 112

Claims 1-4, 6-15 and 20 stand rejected under 35 U.S.C. § 112, first paragraph for allegedly failing to comply with the written description requirement. Specifically, the examiner asserts that independent Claims 1 and 20 do not describe the structural element or elements necessary to cause the automatic folding and unfolding of the forward support leg in such a way as to enable one of ordinary skill in the art to make and use the claimed foldable seat. This contention is respectfully traversed.

When a disclosure describes a claimed invention in a manner that permits one skilled in the art to reasonably conclude that the inventor possessed the claimed invention the written description requirement is satisfied (MPEP § 2163). This possession may be shown in any number of ways and an applicant need not describe every claim features exactly because there is no *in haec verba* requirement (MPEP § 2163). Rather, an adequate description may be made in any way through express, implicit or even inherent disclosures in the application, including words, structures, figures diagrams and/or formulae (MPEP §§ 2163(I), 2163.02). Furthermore, information which is well known in the art need not be described in detail in the specification (MPEP § 2163 (II)(A)(2)). It is also important to be mindful of the generally inverse correlation between the level of skill and knowledge in the art and the specificity of disclosure necessary to satisfy the written description requirement (MPEP § 2163 (II)(A)(2)). Finally, applicants note that the rejected subject matter is original to independent Claims 1 and 20 of this application. There is a strong presumption that an adequate written description of the claimed invention is present in the specification as filed (MPEP § 2163 (II)(A)).

As the present Office action notes, independent Claims 1 and 20 recite a forward support leg that automatically retracts into the stowed position when the seat cushion is pivoted upwardly, and automatically extends into the extended position when the seat cushion is pivoted downwardly. Applicants submit that one of ordinary skill in the art

would reasonably conclude that applicants' disclosure adequately described the invention at the time of filing at least because:

- (1) These features of the vehicle seat are sufficiently taught by the present application as it was originally filed; and
- (2) The art to which the claimed invention belongs is mature and the predictable nature of the art mandates a generally lower showing of possession; accordingly, these features need not be described in exacting detail.

Claims 1 and 20 have been amended to recite a forward support leg that automatically "retracts" and "extends" rather than "folds" and "unfolds," for better consistency with the language of the specification. A review of the present application reveals that applicants describe automatic extension and retraction of the forward support leg in at least paragraphs [0009], [0024] and [0026], and in at least Figs. 1 through 6. Those of ordinary skill in the art would understand the mechanisms that such a disclosure provides, especially in view of the maturity and predictability of the subject art, and would be able to carry out the implementation of such a mechanism without undue experimentation.

In view of the foregoing, applicants respectfully submit that ordinarily skilled artisans would reasonably conclude that applicants possessed the automatically extending and retracting support leg of the basis of the aforementioned descriptions. Applicants further submit that this conclusion is buttressed by the maturity and predictability of the art and because an adequate disclosure need not be express or even implied. Thus, the present application adequately describes the claimed invention. Applicants thus respectfully request favorable reconsideration of the rejection under 35 U.S.C. § 112.

In the event that the Office maintains this rejection, applicants respectfully request, in the interest of its policy of compact prosecution, that the Office explain how the aforementioned portions of the present application fail to communicate to a skilled artisan that applicants possessed the claimed invention.

Claim Rejections – 35 U.S.C. § 102

Claims 1-3, 6, 7, 12 and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by JP Publication No. 406234337 filed by Kuroiwa et al. ("Kuroiwa"). A

claim is anticipated under 35 U.S.C. § 102 “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As amended, Claim 1 recites a seat cushion that is pivotably coupled to an anchor member and is pivotable on a first axis about the anchor member, the anchor member forming a first pivot point. A seatback is pivotably coupled to the anchor member in common with the seat cushion, and is pivotable about the first axis. A forward support leg is coupled to a bottom portion of a seat cushion and is pivotable about a second pivot point that is spaced apart from the first pivot point and on a second axis that is parallel to the first axis. Kuroiwa lacks at least these features of the invention of Claim 1, disclosing instead a seat cushion 2 that is coupled to an anchor member 9 and pivotable about the anchor member on a first axis, the anchor member forming a first pivot point. A seatback 3 is pivotably coupled to a rear portion of the seat cushion at a second pivot point rather than being commonly coupled to the anchor member with the seat cushion. In addition, the seatback does not pivot on the first axis, instead pivoting about the second pivot point on a second axis that is orthogonal to the first axis (Figs. 1-3). Furthermore, the forward support leg 4 of Kuroiwa pivots about a third pivot point and on a third axis, the third axis being orthogonal to the pivot axis of the seat cushion rather than parallel in the manner of applicants’ claimed invention (Figs. 1-3). Based upon the foregoing, applicants submit that amended Claim 1 is patentable over Kuroiwa.

Claims 2, 3, 6, 7 and 12 depend ultimately from Claim 1 and each add limitations that further distinguish the claimed invention from the prior art. As such, applicants submit that Claims 2, 3, 6, 7 and 12 are also allowable. Independent Claim 20 has been amended in a manner similar to Claim 1. Accordingly, applicants submit that Claim 20 is allowable for the same reasons as those presented above for Claim 1.

Claim Rejections – 35 U.S.C. § 103

Claims 4, 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuroiwa in view of U.S. Pat. No. 5,707,103 to Balk (“Balk”). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is

nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Applicants submit that Claim 1 is patentable over Kuroiwa for the reasons provided above. Balk, cited by the examiner with regard to the headrest claimed in Claim 4 and the seatback claimed in Claims 8 and 9, lacks any additional teaching or suggestion that, combined with Kuroiwa, would render Claim 1 obvious. Applicants therefore submit that Claims 4, 8 and 9 are also allowable as ultimately depending from allowable Claim 1.

Claims 10, 11, and 13-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kuroiwa in view of Balk and U.S. Pat. No. 5,826,942 to Sutton et al. ("Sutton"). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Applicants submit that Claim 1 is patentable over Kuroiwa for the reasons provided above. Balk and Sutton, cited by the examiner with regard to the headrest claimed in Claims 10, 11 and 13-15, both lack any additional teaching or suggestion that, combined with Kuroiwa, would render Claim 1 obvious. Applicants therefore submit that Claims 10, 11 and 13-15 are also allowable as ultimately depending from allowable Claim 1.

IV. CONCLUSION

For the reasons discussed above, applicants submit that amended Claims 1-4, 6-15 and 20 of the pending application are patentable over all the prior art of record. It is believed that the application is now in form for allowance and favorable action by the examiner is requested. The examiner is requested to contact applicants' representative at the telephone number below if any other issues remain.

Respectfully Submitted,

/Michael A. Forhan/

Michael A. Forhan, Reg. No. 46,706
Eley Law Firm Co.
Attorneys at Law
7870 Olentangy River Road
Suite 311
Columbus, Ohio 43235
Telephone (614) 825-3539
Facsimile (614) 825-9590
Email: mforhan@eyleylaw.com